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7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
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10 TIMOTHY HOWARD JOHNSON,

11 Petitioner,

12 vs.

13 ROBERT LeGRAND, *et al.*,

14 Respondents.  
15

Case No. 3:15-cv-00258-HDM-WGC

**ORDER**

16 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254  
17 by a Nevada state prisoner.

18 The Court has conducted a preliminary review of the petition pursuant to Rule 4 of the Rules  
19 Governing Section 2254 Cases in the United States District Courts. The Court must dismiss a  
20 petition “[i]f it plainly appears from the petition and any attached exhibits that the petitioner is not  
21 entitled to relief in the district court.” Rule 4 of the Rules Governing Section 2254 Cases; *see also*  
22 *Hendricks v. Vasquez*, 908 F.2d 490 (9<sup>th</sup> Cir. 1990).  
23

24 The Court takes judicial notice of prior habeas corpus actions filed by petitioner in this Court  
25 under the following case numbers: 3:88-cv-00483; 3:92-cv-00372; and 3:93-cv-00490. Petitioner’s  
26 first habeas corpus action, filed as case number 3:88-cv-00483, was reviewed on the merits and  
27 denied by order filed May 19, 1989. (ECF No. 14 in 3:88-cv-00483). Petitioner filed a second  
28 habeas petition in case number 3:92-00372, which was reviewed on the merits and denied on May

1 19, 1994. (ECF No. 42 in 3:92-00372). Petitioner filed a third habeas petition in case number 3:93-  
2 490, which was dismissed on May 17, 1994. (ECF No. 8 in case number 3:93-490).

3 A successive habeas petition may not be filed in this Court unless the petitioner has obtained  
4 permission from the Ninth Circuit Court of Appeals. *See* 28 U.S.C. § 2244(b)(3)(A) (“Before a  
5 second or successive application permitted by this section is filed in the district court, the applicant  
6 shall move in the appropriate court of appeals for an order authorizing the district court to consider  
7 the application.”). In the instant case, by order filed December 30, 2015, this Court granted  
8 petitioner thirty days in which submit proof to demonstrate that he has obtained authorization from  
9 the Ninth Circuit Court of Appeals to present the successive petition filed in this action. Petitioner  
10 has not obtained authorization from the Ninth Circuit Court of Appeals to file the instant successive  
11 habeas petition. In fact, petitioner has filed a motion to voluntarily dismiss this action. (ECF No.  
12 8). This action will be dismissed as a successive petition.

13 **IT IS THEREFORE ORDERED** that the Clerk of Court **SHALL ADD** to the docket  
14 Adam Paul Laxalt, Attorney General of the State of Nevada, as counsel for respondents. The Clerk  
15 of Court shall electronically serve respondents with a copy of the habeas corpus petition and a copy  
16 of this order. Respondents need take no action with respect to this case.

17 **IT IS FURTHER ORDERED** that petitioner’s motion for voluntary dismissal is  
18 **GRANTED**.

19 **IT IS FURTHER ORDERED** that this action is **DISMISSED WITHOUT PREJUDICE**  
20 as a successive petition.

21 **IT IS FURTHER ORDERED** that petitioner is **DENIED** a certificate of appealability.

22 **IT IS FURTHER ORDERED** that the Clerk shall enter judgment accordingly.

23 Dated this 24<sup>th</sup> day of May, 2016.  
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27 HOWARD D. McKIBBEN  
28 UNITED STATES DISTRICT JUDGE